IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 3980 of 2005

Between:

Syed Samdani, S/o Syed Hasham,
R/o 19-2-610/3/2, Fateh Darwaza, Hyderabad.

..... PETITIONER

AND

The Regional Passport Officer, Clock Tower, Secunderabad

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction in the nature of mandamus permitting the petitioner to make an application to the Respondent seeking the change of date of birth in the pass port No. A-9688266,and on such application, the Respondent be directed to receive and consider in the light of the circular issued by the Ministry of External Affairs and consequently an interim direction may pleased be issued to the Respondent to correct the date of birth in the passport from 28-6-1972 to 14-1-1978, and such any other order or orders be pleased which deems fit and proper under the circumstances of the case.

Counsel for the Petitioner:MR.MOHD.QASIM

Counsel for the Respondent : Smt.Y.B.Saraswathi
(Addl SC FOR CG)

The Court at the stage of admission made the following :

O R D E R:

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Heard the learned counsel for the petitioner and the learned standing counsel for the Central Government appearing for the respondent-Passport Authority-Passport Authority.

It is the case of the petitioner that his actual date of birth is 14.01.1978, but in the passport issued to him by the respondent-Passport Authority on 24.05.2001, his date of birth was wrongly mentioned as 28-06-1972. When he approached the respondent-Passport Authority to alter his date of birth in the Passport and issue fresh passport, the respondent-Passport Authority, by a letter dated 04.02.2005, directed the petitioner to furnish necessary documents and that though he submitted an affidavit attested by the notary to that effect, the respondent refused to entertain the same on the ground that he has no power to make correction of date of birth in the passport and directed the petitioner to bring an order from the Court regarding correction of his date of birth. Aggrieved by the said action respondent, this writ petition is filed.

It is required to be noticed that there is no provision under the Passports Act, 1967, which empowers the Regional Passport Officer to correct entries in the Passport. However, pursuant to the judgment of the High Court of Judicature at Bombay, in W.P.No.1072 of 2000, the Government of India issued instructions/clarifications in Circular dated 18-04-2001, which are to the following effect:

> " (a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth is the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, effect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
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> (b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth."

As on today, if any request for correction of date of birth in the passport is made, the Passport Issuing Authority is required to follow the aforementioned instructions. In that view of the matter, the respondent ought to have considered the application of the petitioner for fresh passport in the light of the above instructions in Circular dated 18-04-2001.

Therefore, the Writ Petition is disposed of with a direction to the respondent to consider the request of the petitioner afresh on the basis of his affidavit dated 24.02.2005 for issuance of fresh passport with correct date of birth and process the same after verifying the genuineness or otherwise thereof basing on the documents the petitioner may file in support of his case for change of date of birth, in the light of the aforementioned guidelines, and pass appropriate orders.

With the above directions, the writ petition is disposed of. No costs.

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02.03.2005

Note : Furnish C.C. in two days.

(B/O)

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To

1 The Regional Passport Officer, Clock Tower, Secunderabad

2 Two CD copies

3 1 CC to MR.MOHD.QASIM